

**MINUTES OF A MEETING OF THE BOARD OF APPEALS
July 19, 2012**

Chairperson Harvey Kaye called the meeting to order at 7:30 p.m. Board Members present: Vice Chair Victor Macdonald, Board Members Robert Chiswell, Aaron Kotok, and Alternate Gene Wasserman. Staff present: Caroline Seiden, Planner. Absent: Board Member Carol Rieg.

I. AMENDMENT TO SPECIAL EXCEPTION

1. A-496 (1) – Justin Severson for Sprint

The application requests an amendment to Special Exception A-496 to permit replacement of three (3) panel antennas on the Pepco Tower #736473-0926 located west of Quince Orchard Road in the Pepco Right-of-Way. The property is located in the R-A (Low Density Residential) Zone. The special exception is allowed by § 24-25(11) of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code) in compliance with § 24-167A(D)(2), subject to the review of the Board of Appeals.

Planner Seiden introduced the case, noting that there are currently eight (8) exhibits in the file and that a public hearing was not required due to the limited nature of the amendment. Mr. James Michal, Esq., Jackson & Campbell, represented the applicant. Mr. Michal asked that the original special exception application for A-496 be incorporated by into the record by reference. Mr. Michal cited the increased demand for data experienced by all wireless carriers and the need for internet access via smart phones during emergencies as reasons why Sprint is currently upgrading its antennas to dual band antennas. Chairperson Kaye swore in Mr. Justin Severson, Project Manager for Network Building and Consulting, a subcontractor to Sprint. Mr. Severson testified that Sprint was currently in the process of swapping antennas for approximately 350 sites in the Washington DC/Baltimore region for its Network Vision project. He confirmed that there would be no changes to the facility other than the change in the size of the antennas. Mr. Michal introduced an RF Engineering Affidavit and an online article from RCRWireless.com into the record and they were marked as Exhibits #9 and #10, respectively.

Motion was made by Vice Chair Macdonald, seconded by Board Member Kotok, that the record for Special Exception A-496 (1) be closed.

VOTE: 5-0; Approved

Motion was made by Alternate Wasserman, seconded by Board Member Chiswell that Special Exception A-496 (1) be granted with three (3) conditions and the resolution be approved.

1. Installation of antennas must be completed by July 19, 2014.
2. If the installation is not complete by July 19, 2014, the petitioner must request a time extension, in writing, prior to July 19, 2014 and each subsequent year thereafter until such time as the installation is complete.
3. At such time as Sprint ceases to operate, the antennas, cabinets and associated equipment shall be removed by the petitioner.

VOTE: 5-0; Approved

2. A-487 (B) – Justin Severson for Sprint

The application requests an amendment to Special Exception A-487 (A) to permit replacement of three (3) panel antennas on the existing rooftop telecommunications facility at 9751 Washingtonian Boulevard (Gaithersburg Marriott), Gaithersburg, Maryland. The property is located in the MXD

(Mixed Use Development) Zone. The special exception is allowed by § 24-160D.3 of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code) in compliance with § 24-167A(D)(2), subject to the review of the Board of Appeals.

Planner Seiden introduced the case, noting that there are currently nine (9) exhibits in the file and that a public hearing was not required due to the limited nature of the amendment. Mr. James Michal, Esq., Jackson & Campbell, represented the applicant. Mr. Michal again noted Sprint's need to upgrade its antennas to dual band antennas for the purpose of increasing data capacity. Chairperson Kaye swore in Mr. Justin Severson, Project Manager for Network Building and Consulting, a subcontractor to Sprint. Mr. Severson again confirmed that the antenna replacement was part of Sprint's Network Vision project and that there are no other changes proposed to the site. He confirmed that Sprint would be sharing one pole with T-Mobile and that the two companies had coordinated their plans to ensure that both antennas were viable. Mr. Michal introduced an RF Engineering Affidavit into the record as Exhibit #10.

Motion was made by Board Member Kotok, seconded by Board Member Chiswell, that the record for Special Exception A-487 (B) be closed.

VOTE: 5-0; Approved

Motion was made by Board Member Chiswell, seconded by Alternate Wasserman that Special Exception A-487 (B) be granted with three (3) conditions and the resolution be approved.

1. Installation of antennas must be completed by July 19, 2014.
2. If the installation is not complete by July 19, 2014, the petitioner must request a time extension, in writing, prior to July 19, 2014 and each subsequent year thereafter until such time as the installation is complete.
3. At such time as Sprint ceases to operate, the antennas, cabinets and associated equipment shall be removed by the petitioner.

VOTE: 5-0; Approved

3. A-521 (A) – John Moore for T-Mobile Northeast LLC

The application requests an amendment to Special Exception A-521 to permit replacement of six (6) panel antennas and one (1) equipment cabinet on the existing rooftop telecommunications facility at 9751 Washingtonian Boulevard (Gaithersburg Marriott), Gaithersburg, Maryland. The property is located in the MXD (Mixed Use Development) Zone. The special exception is allowed by § 24-160D.3 of the City of Gaithersburg Zoning Ordinance (Chapter 24 of the City Code) in compliance with § 24-167A(D)(2), subject to the review of the Board of Appeals.

Planner Seiden introduced the case, noting that there are currently 10 exhibits in the file and that a public hearing was not required due to the limited nature of the amendment. Ms. Tracy Anderson, Esq., represented the applicant. Ms. Anderson cited T-Mobile's nationwide upgrade to LTE and 4G as the reason for the change in antennas. Chairperson Kaye swore in Mr. John Moore, an agent for T-Mobile as well as Ms. Anderson. Mr. Moore testified that T-Mobile was currently in the process of swapping antennas for approximately 1,000 sites in the Washington DC/Baltimore region in order to make more efficient use of the federal spectrum provided to T-Mobile and to address the greater data demands. He confirmed that the replacement antennas would be in the same location as the existing antennas. Mr. Moore also referenced Exhibit #7, a report by a structural engineer, who had confirmed that the existing support pipes would support the new antennas. Mr. Moore also acknowledged that T-Mobile and Sprint had worked together to confirm that their two antennas could be placed on one pole in Sector B.

Motion was made by Vice Chair Macdonald, seconded by Alternate Wasserman, that the record for Special Exception A-521 (A) be closed.

VOTE: 5-0; Approved

Motion was made by Board Member Kotok, seconded by Vice Chair Macdonald be granted with four (4) conditions and the resolution be approved.

1. At such time as T-Mobile Northeast LLC ceases to use this facility, the antennas, cabinets and associated equipment shall be removed by the petitioner at the petitioner's expense;
2. Antennas mounted to the penthouse wall shall be colored to match the existing wall;
3. Installation of antennas and associated equipment must be completed by July 19, 2014
4. If the installation is not complete by July 19, 2014, the petitioner must request a time extension, in writing, prior to July 19, 2014 and each subsequent year thereafter until such time as the installation is complete.

II. ADJOURNMENT

There being no more business to come before this meeting of the Board of Appeals, the meeting was adjourned at 8:14 p.m.